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PACIFIC GAS AND ELECTRIC COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

v.

PACIFIC GAS AND ELECTRIC
COMPANY,

Defendant.

CASE NO. CR-14-00175-TEH

**DECLARATION OF NICOLE C. VALCO IN
SUPPORT OF DEFENDANT'S PRETRIAL
MOTIONS**

Judge: Hon. Thelton Henderson
Date: October 19, 2015
Time: 10:00 A.M.
Place: Courtroom 2, 17th Floor

1 I, Nicole C. Valco, declare as follows:

2 1. I am an attorney duly licensed to practice before all the courts of the State of
3 California. I am an attorney with the law firm of Latham & Watkins LLP, counsel of record for
4 Defendant Pacific Gas and Electric Company. I make this Declaration in Support of Defendant's
5 Motions to Dismiss. I have personal knowledge of the information set forth below, and, if called
6 as a witness, I could and would competently testify thereto.

7 **Defendant's Motion to Dismiss for Erroneous Legal Instructions to the Grand Jury:**
8 **Counts 2-28 and the Alternative Fines Act Sentencing Allegations**

9 2. Attached hereto as **Exhibit 1** is a true and correct copy of a letter from Kim
10 Berger of the United States Attorney's Office to Steven Bauer of Latham & Watkins LLP and
11 Kate Dyer of Clarence, Dyer & Cohen LLP, dated July 9, 2015, attaching a Supplemental Order
12 to Extend Term of Grand Jury 12-2 filed on April 1, 2014.

13 3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the
14 reporter's transcript of William Hayes' grand jury testimony dated July 29, 2014, as produced by
15 the government bearing Bates numbers USA-109755-56, USA-109777-79, USA-109801.

16 4. Attached hereto as **Exhibit 3** is a true and correct copy of the memorandum of the
17 interview of Ravi Chhatre conducted on July 10, 2014, as produced by the government bearing
18 Bates numbers USA_INT-00740-42.

19 5. Attached hereto as **Exhibit 4** is a true and correct copy of Special Agent Lisa
20 Glazzy's (U.S. Department of Transportation) notes from the interview of Ravindra Chhatre
21 conducted on July 10, 2014, as produced by the government bearing Bates numbers USA-
22 AGENTNOTES-00113-15.

23 6. Attached hereto as **Exhibit 5** is a true and correct copy of the memorandum of the
24 interview of Matthew Nicholson conducted on July 10, 2014, as produced by the government
25 bearing Bates numbers USA_INT-00732-34.

26 7. Attached hereto as **Exhibit 6** is a true and correct copy of the memorandum of the
27 interview of Robert Hall conducted on July 10, 2014, as produced by the government bearing
28 Bates numbers USA_INT-00735-37.

8. Attached hereto as **Exhibit 7** is a true and correct copy of a letter from Margaret Tough of Latham & Watkins LLP to Kim Berger, et al. of the United States Attorney's Office dated August 21, 2015.

9. Attached hereto as **Exhibit 8** is a true and correct copy of a letter from Kim Berger of the United States Attorney's Office to Steven Bauer of Latham & Watkins LLP and Kate Dyer of Clarence, Dyer & Cohen LLP dated September 2, 2015.

10. Attached hereto as **Exhibit 9** is a true and correct copy of the Declaration of Hallie M. Hoffman in Response to Court Order Dated June 29, 2015 ("Hoffman Declaration"). I received this declaration by email from Ms. Hoffman on July 31, 2015. The declaration indicates it was filed under seal with the Court on July 14, 2015. The exhibits originally attached to this declaration have been omitted from Exhibit 9, and selected exhibits are attached below as Exhibits 10-14.

11. Attached hereto as **Exhibit 10** is a true and correct copy of the March 19, 2013 Reporter's Transcript of Colloquy Between AUSA Stacey P. Geis and the Grand Jury, which was originally attached as Exhibit 9 to the Hoffman Declaration (Exhibit 9 above).

12. Attached hereto as **Exhibit 11** is a true and correct copy of the November 5, 2013 Reporter's Transcript of Colloquy Between AUSA Stacey P. Geis and SAUSA Brett J. Morris and the Grand Jury, which was originally attached as Exhibit 6a to the Hoffman Declaration (Exhibit 9 above).

13. Attached hereto as **Exhibit 12** is a true and correct copy of the February 4, 2014 Reporter's Transcript of Colloquy Between AUSA Stacey P. Geis and the Grand Jury, which was originally attached as Exhibit 5 to the Hoffman Declaration (Exhibit 9 above).

14. Attached hereto as **Exhibit 13** is a true and correct copy of the April 1, 2014 Reporter's Transcript of Proceedings Colloquy, which was originally attached as Exhibit 3 to the Hoffman Declaration (Exhibit 9 above).

15. Attached hereto as **Exhibit 14** is a true and correct copy of the July 29, 2014 Reporter's Transcript of Proceedings Colloquy, which was originally attached as Exhibit 1 to the Hoffman Declaration (Exhibit 9 above).

1 16. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts of the
 2 Transcript of Proceedings from *United States v. Arthur Andersen LLP*, United States District
 3 Court, Southern District of Texas, Case No. H-02-121, dated May 25, 2002. On information and
 4 belief, this transcript from the Southern District of Texas was included in the Fifth Circuit
 5 appellate record and cited by Arthur Andersen in its appeal.

6 **Defendant's Motion to Dismiss for Failure to State an Offense: Count One**

7 17. Attached hereto as **Exhibit 16** is a true and correct copy of a letter from Kim
 8 Berger of the United States Attorney's Office to Steven Bauer of Latham & Watkins LLP and
 9 Kate Dyer of Clarence, Dyer & Cohen LLP dated July 15, 2015.

10 18. Attached hereto as **Exhibit 17** is a true and correct copy of the Declaration of Ann
 11 G. Gawalt, Deputy General Counsel at the National Transportation Safety Board dated August
 12 12, 2015, as produced by the government bearing Bates numbers USA_NTSB-066494-496. This
 13 Exhibit omits the exhibits originally attached to the declaration.

14 19. Attached hereto as **Exhibit 18** is a true and correct copy of excerpts of the
 15 Reporter's Transcript dated June 1, 2015 from *United States v. Rainey*, Eastern District of
 16 Louisiana, Criminal Case No. 12-291. We requested and received this transcript from the court
 17 reporter in the Eastern District of Louisiana.

18 **Defendant's Motion to Dismiss the Alternative Fines Act Sentencing Allegations**

19 20. Attached hereto as **Exhibit 19** is a true and correct copy of a letter from Steven
 20 Bauer of Latham & Watkins LLP to Kim Berger, et al. of the United States Attorney's Office
 21 dated March 31, 2015.

22 21. Attached hereto as **Exhibit 20** is a true and correct copy of a letter from Kim
 23 Berger of the United States Attorney's Office to Steven Bauer of Latham & Watkins LLP, Kate
 24 Dyer of Clarence, Dyer & Cohen LLP, and Walter Brown of Orrick Herrington & Sutcliffe LLP
 25 dated April 3, 2015.

26 22. Attached hereto as **Exhibit 21** is a true and correct copy of excerpts from the
 27 September 22, 2011 case management hearing transcript before The Honorable Steven L. Dylina
 28 in the *PG&E "San Bruno Fire" Cases*, San Mateo Superior Court, JCCP No. 4648.

23. Attached hereto as **Exhibit 22** is a true and correct copy of The Honorable Steven L. Dylina's Case Management Order No. 6 filed January 19, 2012 in *PG&E "San Bruno Fire" Cases*, San Mateo Superior Court, JCCP No. 4648.

24. I reviewed a compilation of the deposition transcripts from *PG&E "San Bruno Fire" Cases*, San Mateo Superior Court, JCCP No. 4648. Collectively, the parties took over 200 depositions in those coordinated proceedings.


25. I reviewed a compilation of the motions *in limine* filed in *PG&E "San Bruno Fire" Cases*, San Mateo Superior Court, JCCP No. 4648. Collectively, the parties filed over 110 motions *in limine*.

Defendant's Motion for a Bill of Particulars

26. Based on my review of records, on information and belief, during the course of the National Transportation Safety Board's ("NTSB's") investigation of the root cause of the rupture of one of PG&E's pipelines in San Bruno, the NTSB sent PG&E approximately 550 requests over the course of 11 months. These requests include questions, amendments to questions, and supplements to questions.

27. Based on my review of records, on information and belief, the government has produced approximately 1.98 million pages of documents in this case thus far.

I declare under penalty of perjury that the foregoing is true and correct and that I executed this declaration on September 7, 2015, in San Francisco, California.



Nicole C. Valco